

Ordinance



City Council
City of Wilmington
North Carolina

01
Amend/Adopt
0-2008-74

Introduced By: Sterling B. Cheatham, City Manager

Date: 08/05/2008

Ordinance Amending the Land Development Code Relating to Outdoor Advertising Signs (LDC-6-508)

LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS Section 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code;

WHEREAS, the amendment set out below is intended to promote the public health, safety and welfare by amending the Land Development Code to allow for the reconstruction and/or relocation of existing outdoor advertising signs, to allow reconstructed or relocated outdoor advertising signs to include electronic changeable copy, and to allow all electronic changeable copy signs to alternate messages every 8 or 15 seconds; and

WHEREAS, in the interest of the public safety and welfare, it is appropriate to require electronic changeable copy signs to display emergency messages in certain circumstances.

THEREFORE, BE IT ORDAINED:

Section 1. Subsection 18-591(n) of the Wilmington City Code is hereby amended to read:

“(n) No new outdoor advertising signs shall be permitted, except as provided in Section 18-608 below.”

Section 2. Section 18-608. Allowance, of the Wilmington City Code is hereby amended to read:

"Section 18-608. Allowance; Removal/Relocation/Reconstruction of non-conforming outdoor advertising signs.

(a) *New signs limited.* No new outdoor advertising signs shall be permitted in the City of Wilmington except for outdoor advertising signs that are removed, relocated, or reconstructed pursuant to the requirements of this section.

(b) *Agreements Authorized.* Any outdoor advertising sign that has been properly registered

CERTIFIED TO BE A TRUE COPY
Amber Spica-Sikbury
City Clerk

shall be considered a “qualified sign” for purposes of this section and eligible for a removal, relocation, and reconstruction agreement pursuant to the terms of this section. Any outdoor advertising sign that had not been properly registered shall not be eligible for such an agreement. For any signs that are registered as qualified signs pursuant to subsection (c) below, the city and the sign owner may enter into an agreement providing for the removal, relocation, and/or reconstruction of said signs, subject to the limitations set forth below. In addition, the city and sign owner may enter into an agreement providing for the relocation or reconstruction of qualified signs on the same lot, subject to the limitations set forth below. Prior to any relocation or reconstruction of a qualified sign that conforms to the limitations below, a sign permit from the City of Wilmington is required as provided for in Section 18-50 of this Chapter, and said permit shall constitute an agreement between the permit holder and the city for purposes of this subsection and the N.C. Gen. Stat. 160A-199. A qualified sign owner who has removed such sign from a lot at a time when the provisions of this Section 16-608 remain effective has a vested right to relocate said sign within one (1) year from the date of removal regardless of subsequent changes to the City Code.

(c) *Qualified signs.* Within ninety (90) days of the effective date of this ordinance, owners of outdoor advertising signs located within the city’s planning and regulatory jurisdiction shall apply to register signs with the City Manager. For areas added to the city’s planning and regulatory jurisdiction after the effective date of this ordinance by annexation or extraterritorial jurisdiction extension, the city shall notify the owner of any outdoor advertising signs in writing of such annexation or extension. The owners of any outdoor advertising signs in such areas shall apply to register signs with the City Manager within one hundred eighty (180) days of the date of such notice. No outdoor advertising sign may be registered unless such sign has an existing valid permit from the North Carolina Department of Transportation.

(d) *Gateways.* A qualified sign owner may not reconstruct or relocate a sign that is not a gateway sign, as defined herein, until such time as all qualified signs of said owner have been removed and relocated from US 76, east of the Cape Fear Memorial Bridge to 16th Street. This limitation shall not apply if the qualified sign owner does not own or lease any signs in such area. When a qualified sign owner reconstructs or relocates a sign that is not a gateway sign, the owner shall remove and relocate any signs owned or leased by the owner on North College Road from the city limits to Market Street within eighteen (18) months from the issuance of the building permit for the sign that is not a gateway sign and remove and relocate any signs owned or leased by the owner on North Third Street from the city limits to Harnett Street within thirty-six (36) months from the issuance of the building permit for the sign that is not a gateway sign. For the purposes of this section, a gateway sign is any sign located on the portions of US 76, North College Road and North Third Street as described herein.

(e) *Location.* A qualified sign may be relocated or reconstructed and continued as a nonconforming use on any lot zoned CB, Community Business District; RB, Regional Business District; CS, Commercial Services District; LI, Light Industrial District; IND, Industrial District; or AI, Airport-Industrial District; and located only in the following areas:

- (1) Market Street from Mercer Avenue to terminus of city’s zoning jurisdiction;
- (2) College Road from Market Street south to terminus of city’s zoning jurisdiction;

(3) Oleander Drive from Dawson Street south to the southern bank of Bradley Creek;

(4) Carolina Beach Road

(5) Shipyard Boulevard from S. 17th Street west to its terminus

(f) *Removal/replacement/reconstruction.* Any relocated and/or reconstructed qualified sign shall comply with the following standards:

(1) *Number.* The total number of relocated and/or reconstructed signs shall not exceed the number of qualified sign structures and sign faces that are registered as qualified signs.

(2) *Size.* No outdoor advertising sign shall exhibit a face panel size greater than three hundred eighty (380) square feet or the size of the face panel being relocated and/or reconstructed, whichever is smaller.

(3) *Separation.* A relocated and/or reconstructed qualified sign shall meet the following separation requirements:

a. A minimum of one thousand (1,000) linear feet between qualified signs on the same side of the road, unless the relocated and/or reconstructed sign replaces a sign on the same lot that is constructed on multiple poles. A sign is located on the same side of a road as another sign if the sign structures are adjacent to the same side of the road and the sign faces are oriented to the same direction of traffic.

b. A minimum of five hundred (500) linear feet from any locally or nationally designated historic district, unless the relocated and/or reconstructed sign replaces a sign on the same lot that is constructed on multiple poles.

c. A minimum of two hundred (200) linear feet from any residentially zoned or used property on the same side of the road, unless the relocated and/or reconstructed sign replaces a sign on the same lot that is constructed on multiple poles.

(4) *Setback.* A relocated and/or reconstructed qualified sign shall be set back no less than ten (10) feet from the edge of the right of way.

(5) *Height.* A relocated and/or reconstructed qualified sign shall not exceed forty (40) feet in height.

(6) *Structural limitations.* A relocated and/or reconstructed qualified sign shall be a monopole sign. Replaced signs shall not be attached to any building. A relocated and/or reconstructed sign is limited to only have one face per side.

(7) *Landscaping/protected trees.* The base of a reconstructed sign shall be surrounded by a ten (10) foot buffer landscaped in accordance with the requirements of subsections 18-503(b) or (d) of this Chapter. No trees, protected or otherwise, shall be removed for the reconstruction,

relocation or removal of a qualified sign. When conditions exist peculiar to the site that prevent the full width of the buffer from being installed, the city manager shall reduce the buffer width requirements up to and including full exemption. Applicable site conditions include but shall not be limited to the protection of trees, the location of existing buildings, existing paving or other site improvements and the maintenance of safe ingress, egress and circulation for the site. In any event, the buffer shall only be reduced to that width necessary to accommodate such conditions. When a buffer is reduced, the qualified sign owner shall make a payment to the city in lieu of providing any required landscaping. The amount of the payment in lieu shall equal the estimated cost of any landscaping that is not provided by the sign owner.

(8) *Placement on lot with conforming uses.* A qualified sign may be located on a lot with any conforming uses subject to compliance with the terms of this section.

(9) *Changeable copy signs.* Upon the issuance of a sign permit as specified in this Chapter, owners of qualified signs may replace existing face panels on qualified signs with digital changeable copy as defined below, subject to the following conditions:

a. A single qualified sign owner/operator may not replace more than forty percent (40%) of the total number of qualified sign structures under the same ownership with digital changeable copy;

b. Digital changeable copy signs shall not change or alternate displays (words, symbols, figures or images) more frequently than once every fifteen (15) seconds, except that digital changeable copy signs may change or alternate displays as frequently as once every eight (8) seconds if: (i) the sign displays public service announcements on a permanent basis once within every sixty (60) second period, and (ii) the sign operator displays as part of the normal advertising rotation public emergency messages hereinafter defined until such time as such message is no longer reasonably necessary. "Public emergency messages" shall mean: Amber Alert emergency information and information about terrorist attacks, natural disasters, public infrastructure failures and public safety emergencies. Public emergency messages shall be displayed in accordance with protocols developed by the City in conjunction with the issuing agencies and the qualified sign owners. For the purposes of this section, a public service announcement shall be any announcement for which no charge is made and which promotes programs, activities, or services of federal, state, or local governments or the programs, activities or services of non-profit organizations and other announcements regarded as serving community interests, excluding time signals, routine weather announcements and promotional announcements.

c. Any qualified sign utilizing digital changeable copy shall not be located within one thousand (1,000) feet of any other qualified sign with digital changeable copy ; and

d. Any digital changeable copy sign shall meet the following display requirements:

i. The images and messages displayed shall be complete in themselves, without continuation in content to the next message or image, or to any other sign.

ii. The transition between images shall be instantaneous and without special effects.

iii. The display shall not be configured to resemble a warning, danger signal, official signage used to control traffic, or to cause a viewer to mistake the sign for a warning or danger signal.

iv. No electronic animation, movement, scrolling, flashing text, or streaming video shall be permitted.

v. All digital changeable copy signs shall be designed and equipped to freeze the device in one position or immediately discontinue the display if a malfunction occurs.

vi. No sign may be brighter than is necessary for clear and adequate visibility and shall not exceed a maximum of seven thousand five hundred (7,500) candela per square meter (cd/m^2) during daylight hours and one thousand (1,000) cd/m^2 during non-daylight hours. No sign shall display such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device, or signal or is distracting to drivers. All digital signs shall be equipped with both a dimmer control and photocell that automatically adjusts the intensity of the display according to natural ambient light conditions.

vii. Prior to the issuance of a sign permit, the applicant shall provide written evidence that the light intensity has been factory pre-set not to exceed seven thousand five hundred (7,500) cd/m^2 and that the intensity level is protected from end-user manipulation by password-protected software or other method determined appropriate by the City Manager.

(10) *Lighting.* Light emitted from any reconstructed qualified sign shall be confined to the sign area and in no case shall light emitted from a billboard be allowed to shine directly onto or into a residentially zoned or used property.

(g) *Conflict.* These provisions shall control in the event of conflicts with requirements or prohibitions of any underlying zoning district.

(h) *No effect on amortization.* No agreement under this section and nothing herein shall affect the nonconforming status of any outdoor advertising sign or the amortization period under Section 18-610 of this Chapter. The city may at any time require the removal of any outdoor advertising signs in accordance with Section 18-610 of this Chapter and any applicable state and federal laws."

Section 3: That any person violating the provisions of this ordinance shall be subject to the penalties set forth in Section 18-52 of the Land Development Code.

Section 4: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 5: That if any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction,

such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

Section 6: That this ordinance shall be effective immediately upon its adoption.

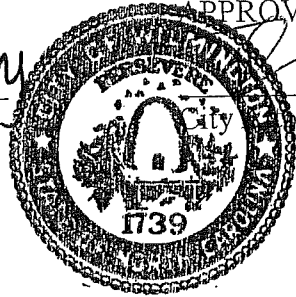
Bill Saffo
Bill Saffo, Mayor

Adopted at a regular meeting
on September 2, 2008

ATTEST:

Debbie Spicer-Sickbush
City Clerk

APPROVED AS TO FORM:



Debbie Spicer-Sickbush
City Clerk